

# Sovereign Nations

NEWSLETTER OF TRIBAL SELF-GOVERNANCE

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Skokomish basket weaver Phoebe Charles displays a traditional basket in a 1912 Edward S. Curtis photograph.

## *Self-Governance Helps Drive Tribal Sovereignty for Skokomish Tribe*

**T**radition and culture mean a great deal to the Skokomish Tribal community. The evidence is everywhere; whether its pre-schoolers learning the Twana language in the HeadStart Program, "The Seeds of Our Ancestors" artisan exhibit displayed in the Tribal Center lobby, or an alcohol and substance abuse program which focuses on traditional methods of healing. Tribal sovereignty, and the freedom to live their traditions, is nothing new to the Skokomish Tribe. Self-Governance seemed an obvious extension to them. As Tribal Chairman Gordon

James says, "we hoped it would be another affirmation of our Tribal sovereignty."

The Skokomish Indian Reservation is located in Mason County, Washington and includes 4,987 acres or about 7.5 square miles. The Reservation was created by the Point No Point Treaty. The Tribe has over 700 enrolled members and has a service population of over 1000. The Skokomish Tribe is comprised of nine separate bands (Dabop, Quilcene, Dosewallips, Duckabush, Vance Creek,

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- Year-ahead perspectives from IHS Director Dr. Trujillo and BIA OSG Director Bill Sinclair.
- NCAI President Ron Allen provides commentary on 105th Congress.





# An Indian Health Service Perspective on Self-Governance - Perspective by IHS Director Dr. Trujillo-



Michael H. Trujillo, M.D., M.P.H.

**S**elf-Governance works. The 1994 amendments to the Indian Self-Determination and Education Assistance Act of 1975 were significant, but I do not consider those amendments to be the last. For years, health services were provided by the Indian Health Service alone, with the use of contract care. Then the 1975 Act provided tribes the additional option of contracting with the Indian Health Service to provide their own services. Since 1994, a third option of compacting presented tribes with the opportunity to manage and operate their own health programs and further advanced the self-determination goals of individual tribes. As tribes define additional options and make them known to their representatives in Congress and to those Indian organizations, including the Indian Health Service, that represent and advocate on their behalf, I am sure additional changes will be made.

*The health responsibility of the U.S. government can be exercised in many ways — through contracts, compacts, and direct services — and it can never be terminated. A constant in all of the changes to self-determination is the option of tribes to continue to receive direct services from the Indian Health Service. As long as tribes exercise their option to*

receive direct services, the ability of the Indian Health Service to provide health services must continue to exist. For Self-Governance to succeed, other tribal options must also succeed.

*The concept of base budgets for those tribes that enter into Self-Governance compacts and the issue of contract support costs are two significant issues highlighted by the Self-Governance demonstration program. Working with various Self-Governance committees and work groups has been invaluable to the resolution process. The Tribal Self-Governance Advisory Committee will continue to play a significant role in policy review and advice related to Self-Governance issues. By working together on the base budget issue, a resolution was reached. In fiscal year 1998, tribes will have the option of negotiating a base budget with the IHS. This will provide tribes an opportunity to engage in long range planning based on a constant level of funding. The base budget represents a level of funding that the tribes will receive with the remainder being negotiated and affected by Congressional appropriations and federal budget constraints. Working with tribal representatives has brought us nearer to closure on the issue of contract support costs and a revised policy is likely this year. Two additional issues, buy-backs and full cost recovery, are jointly being worked on and will soon be resolved.*

*Self-Governance is a successful program. There are currently 34 compacts and 48 annual funding agreements. This represents a total of 238 tribes, or 44 percent of the total federally recognized tribes. Self-Governance tribes represent a population of 320,000 American Indians and Alaska Natives, or 23 percent of the 1.4 million tribal members eligible for Indian Health Service services.*

*The support of Self-Governance has been a working policy of the Indian Health Service. I have received many reports of appreciation and support for the work of the Indian Health Service staff in the Self-*

Governance process. Those comments far outweigh the number of comments and concern of where the Self-Governance and the Indian Health Service partnership pushed the boundary of bureaucratic process to take a risk and move forward. I expect that the number of tribes electing Self-Governance for their health programs will continue to increase, but I do not expect all tribes to make that choice. In future years, I believe there will be further amendments that will provide additional self-determination choices for tribes. Those choices will reflect the desires of tribes and the particular political, economic, and social environment of those times. In the future, there will continue to be Self-Governance tribes and the Indian Health Service and they will be a part of the Indian health system that also includes tribal and non-tribal health contracts, and urban Indian health programs.

*Self-Governance for health programs has come a long way in such a short time. There are many ways to reach the shared goal of improving the health status of American Indians and Alaska Natives — Self-Governance is one path. A great endorsement of the success of the health delivery programs of the Self-Governance tribes was a recommendation to the Indian Health Service leadership that it is now time to evaluate the health programs administered by the tribes. The goal of the evaluation is not to judge, but to learn. It was stated that tribes are being innovative and creative in providing health services to their people and leveraging their federal and non-federal funds. I endorse the statement that the Indian Health Service can learn from Self-Governance tribes on ways to maximize resources and deliver quality care. That is a performance measure of achievement that was not foreseen when the first 14 compacts were awarded in 1994. That is a degree of performance accountability that supports the Indian Health Service recommendation to Congress that Self-Governance becomes a permanent option for tribes. Self-Governance works.*



# A Bureau of Indian Affairs Perspective on Sovereign Nations - Perspective by OSG Director Bill Sinclair-



I appreciate the invitation from Sovereign Nations to share some thoughts regarding Self-Governance. One of the things that has impressed me since I began working for the Office of Self-Governance (OSG) 6 years ago, has been the amount of dedicated work by both tribal leaders and Federal officials and their staffs in developing and refining Self-Governance. This has been very evident in the negotiated rule making process and in the numerous tribal/federal work groups that have been formed over the years to address specific Self-Governance policy issues. This partnership between tribal and Federal officials is essential as Tribal Self-Governance continues to evolve.

One of my disappointments, over this time period, is I have visited only a few Self-Governance tribes. While I have met and worked with many tribal leaders and staff, there are many others whom I have not met or had the pleasure of visiting their reservations to learn what is being accomplished through Self-Governance. With 60 Self-Governance agreements that include 202 Federally recognized tribes, there is a rich variety of service delivery systems to Tribal citizens and I am afraid that much of this is being taken for granted due to the crush of day-to-day dealings in Washington D.C. In the coming year or so, I intend to have the budget resources and time to change this.

*Self-Governance and the Tribal Shares Process:* Another thing that I have noticed over the past several years, is that much of the BIA has been affected by the Tribal Self-Governance movement. One piece of evidence is the tribal shares process which has affected the thinking of all tribes and the BIA.

The tribal shares process is the mechanism being used by the BIA to facilitate the transfer of program operation to tribes and ultimately to downsize and restructure the BIA. Last September, the Deputy Commissioner of

Indian Affairs authorized and directed the election of 24 tribal representatives, two from each of the 12 area locations to serve as members of a Tribal workgroup. The goal of this workgroup is to develop an agreed to process to determine tribal shares. In addition, this group is developing user friendly documents to improve the identification of residual (inherently Federal) and non-residual (contractible) functions for each program at each level of the BIA. There is now a smaller Tribal subgroup working with BIA management to refine and analyze the legal authorities and costs associated with these functions. This tribal subgroup is expected to complete its work in late spring of this year. The results, after being presented to the full committee, will be sent to each BIA area office. Tribal shares consultation meetings then will be held with tribes within each BIA Area.

The upcoming 1998 Self-Governance negotiations will be conducted within the context of tribal shares. Even though the process is not yet complete, we will be using the best available information during these negotiations. The Self-Governance negotiated amounts are still subject to completion of the tribal shares process. However, in the event the tribal shares process is not completed, then the negotiated amounts for 1998 will be final upon the effective date of the agreement.

*Information and Data Reporting:* Another issue that affects all tribes is obtaining information and data from Self-Governance tribes. I realize Indian tribes in general want relief from any Federal reporting requirements having little or no utility for the tribe. However, our own Tribal Self-Governance Act of 1994 requires an annual report to Congress on the costs and benefits of Self-Governance and the Government Performance and Results Act (P.L. 103-62) is legislation requiring us to quantify accomplishments that will be used increasingly in budget deliberations by Department, Office of

Management and Budget and the Congress.

Tribes have been working with the Department through the negotiated rule making process to draft rules for reporting requirements that are not burdensome for the tribes and yet responsive to the data and information needs that we face. I remain committed to continue this development process and request each Self-Governance Tribe to comply with whatever data requirements are eventually agreed to. BIA also needs periodic data for programs in which Self-Governance tribes participate. For example, information is needed for such programs as small and needy tribes, housing improvement program, general assistance, labor force report etc. Some of these data needs are annual and some are less frequent. Again, I ask for 100% participation by Self-Governance tribes to these periodic data requests. It is in all of our interests to be able to respond to Congress regarding what Federal tax dollars are buying in the form of programs and services. Having data and information readily available also can serve as a vehicle to document Tribal needs in different programs and the challenges Tribes continue to face.

*1998 Negotiations:* The Office of Self-Governance has remained small over the years and 1997 is no exception. Since the Congress denied BIA's requested increase of \$800,000 for our office, we are forced to look for ways to streamline the 1998 negotiations. In order to minimize travel costs for both tribes and our office, we are asking that the number of face-to-face negotiations be limited. We anticipate meeting with Tribes/Consortia entering into Self-Governance in 1998. We also plan to attend the final negotiation sessions of Tribes/Consortia which began participation in Self-Governance this year. For all other Tribes/Consortia continuing participation in Self-Governance since 1996 or earlier, there should be little if any need to attend a

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# Preserving Tribal Sovereignty and Treaty Rights Into The 21st Century

- Commentary by W. Ron Allen, Chairman, Jamestown S'Kallam Tribe; President, NCAI-



W. Ron Allen

**W**hat challenges or opportunities will the Tribes encounter with the 105th Congress and what should we expect from the next Clinton Administration? What is the level of knowledge of the new Congressional or Administrative leaders and their staff regarding American Indian and Alaska Native history, communities, problems, and needs? What is our political life going to be like these next two or even ten years? What will the impact of these political conditions (including the Republican controlled-Congress) have on the Self-Governance movement? These are consistent questions Tribal leaders have been asking themselves. Our task is to be prepared to answer them—accompanied with clear solution strategies to provide strong leadership and direction.

The Tribal leadership has been advancing a steady course of restoration of the Tribes' sovereignty and right to govern our own affairs. In 1934, it was the Snyder Act; in 1975, it was Self-Determination; and, in 1990, it became Self-Governance. Self-Governance has become a new frontier and opportunity for the Tribes to exercise their sovereignty as governments and take control from the federal bureaucracy over the future of their people through management of their federal and natural resources.

Any new political initiative will experience problems in one form or another. Tribal leadership must keep the concerns and problems in perspective and not lose our vision and opportunity for Tribes to become truly self-governing. The challenges will come from many sources led by a bureaucracy that does not want to relinquish control over an Indian activity, such as management of trust services or essential Tribal advocacy functions, only to justify its existence. Other sources will also confront our efforts, such as Tribes who do not want to participate or anti-Indian political leaders in the Congress who have a different notion regarding how they want to empower the Tribes and relinquish their obligations to the Indian people.

Tribes will experience countless new challenges including: "means testing"; arguing over entitlement or share formulas for the inadequate federal funds available for Tribes; or, trying to find the balance between the minimum level of federal bureaucracy as opposed to transferring the resources to the Tribes. These are difficult tasks to address to the satisfaction of all the Tribes. However, it can be done — and these tasks should be recognized as releasing the federal "harness" that has controlled Tribal affairs for centuries.

Unfortunately, the United States does have plenary power over the Tribes' affairs and can restructure the federal laws to reduce sovereign right and historical authority beyond recognition. Again, Tribal leaders cannot count on the Congress and Administration to "do the right thing" regarding protecting the Tribes' sovereignty and Treaty rights. If we do, we are being very naive. The Tribes must continue to become better organized to counter the challenges that we will encounter in the 105th Congress through the political process, the media and all other vehicles of political influence that can be leveraged.

Based on the experiences of the last Congress and Administration's performance, Tribal leaders should expect

a difficult time persuading them to protect our interests. American Indian and Alaska Native affairs, rights and needs continue to be an after-thought policy. It will always be incumbent on the Tribes to prod the Administration to utilize their veto power to defend the Tribes rights and needs. There are approximately 350 of the 435 House representatives who do not have Indian Tribes in their districts. Therefore, we must work hard to influence them to become supporters of our cause, along with the Congressional leaders from our districts.

Success and perseverance are often connected when people talk about achieving goals. Success is not determined as much by our knowledge or strength, but by our will to succeed. Perseverance is one of the qualities the Tribal leaders have possessed since the first encounter with the non-Indian cultures; and it is essential for the continued success of our survival. If Indian Country is going to succeed in our political goals and persevere over the consistent anti-Indian sentiment that influences our political system, then we must become better skilled and astute to how the political system works and less by our ideal notion of what is right.

The President in his State of the Union Speech talks of "Bridging the 21st Century with the 20th Century". However, does that include becoming more committed to the "government-to-government" principles? I doubt it — unless his staff becomes champions or at least supporters of a meaningful implementation of this principle. The only way Indian Country's goals will become a part of the President's vision and agenda is if we make it a part of it! With the modest success of Self-Governance in the Department of Interior, are we seeing a better process in the Welfare Reform legislation or the solutions to the Trust Funds Management? No. The Tribal leadership will have to work harder, be better prepared and maintain our concentration if we are going to make the political system respond responsibly.



## Updates



### IHS FY 1998 Lead Negotiators Announced

#### *Aberdeen:*

Archie Clifford  
605/226-7567

#### *Alaska:*

Chris Mandregan  
907/257-1429

#### *Albuquerque:*

Anthony Yepa  
505/248-5484

#### *Bemidji:*

Vic Mosser  
218/759-3354

#### *Billings:*

Garfield Littlelight  
406/247-7102

#### *California:*

Dennis Heffington  
916/566-7001

#### *Nashville:*

Jesse Thomas  
615/736-2478

#### *Navajo:*

Ron Ferguson  
520/871-5852

#### *Oklahoma:*

Wes Picciotti  
602/640-2140

#### *Phoenix:*

Mark Downing  
602/640-2052

#### *Portland:*

Ron Ferguson  
520/871-5852  
503/326-7280

#### *Tucson:*

Bob Price  
520/295-2406

*To stay the course, sometimes you have to make waves. Maybe it's time to challenge the President and the Secretary of Interior to meaningfully address the needs of Indian Country. Tribal leaders must accept the fact that our agenda is not as simple as Democrat or Republican. Its "government-to-government" and the majority of the American political system does not understand that principle. Indian Country has to strengthen our Tribal, regional and national organizational capacities to mobilize our political energies.*

*This collective capability will enable us to counter the constant challenges we will face in the 105th Congress, such as Self-Governance, gaming, housing, trust fund management, health and education services, and means testing. It will also help us to steer the Administration to protect our rights and advance or stop issues such as anti-Indian riders on appropriation bills or assure effective Indian appointments for key political positions such as the Assistant Secretary of Interior for Indian Affairs or the Chairman of the National Indian Gaming Commission or an Indian representative on the National Gambling Impact Study Commission.*

*We have a lot to learn from Michael Jordan, the Chicago Bulls' superstar, who will probably go into the history books as the most phenomenal basketball player in history. The lesson he provides us is how he has persevered over a long career to achieve such success. The answer is simple, he did it with hard work, preparation, concentration and sheer will. I choose to use the Michael Jordan metaphor to cause us to look at our tasks from the perspective of one who made it happen. We can achieve our goals with the same qualities and focus. Let us unite our will and succeed.*

### Indian Health Service Headquarters Reorganized

The Headquarters of the IHS was reorganized, reducing from 9 major offices and more than 145 organizational units to 3 major offices and less than 40 organizational units. The Headquarters reorganization is Phase I of the restructure of the health care delivery system for American Indians and Alaskan Natives. Phase II of the reorganization plan for the agency is the restructure of the 12 Area Offices.

The three offices in the new IHS Headquarters structure include the Office of the Director, headed by Ms. Luana Reyes, the Office of Public Health, headed by Dr. Robert Harry and the Office of Management Support, headed by Mr. Robert McSwain.

The restructure came from the advise of the Indian Health Design Team, made up of 29 Indian leaders and 7 IHS representatives, which has been meeting since their inception in October of 1994. Their recent report, "Design for a New IHS, Final Recommendations of the Indian Health Design Team", called for the decentralization of the IHS system where the patient comes first. The restructure was necessary given the climate of rising health costs, lower Congressional appropriations and the increase of contracting by Tribes.

For copies of the final IHDT Report, a transmittal letter from the IHDT Co-Chairs and question and answers regarding the report, contact Cliff Wiggins, Special Assistant to the IHS Director, 301/443-7261.

### BIA Conducts Consultation Meetings Over Draft Strategic Plan of Office of Special Trustee

The BIA will be conducting consultation meetings, as announced in the January 21, 1997 Federal Register, regarding a draft Strategic Plan for the Office of Special Trustee.

The draft Strategic Plan has significant implications for future Tribal-Federal relationships and policies involving management of trust resources and the creation of an American Indian Development and Trust Bank for the investment of trust funds and the potential to charge American Indian beneficiaries for financial services.

For copies of the plan and dates and location of any future consultation meetings, contact Shelly Farmer, Office of Special Trustee at 505/248-5736.





Hoodsport, Tahuya, Dulalap and Skokomish) and occupied the Western Washington region now known as Hood Canal. These communities spoke Twana and lived in permanent winter villages along the Hood Canal and its tributary rivers and streams. In the spring, summer and fall, they ranged throughout the watershed, fishing, hunting and gathering.

Twana society was based on abundant wild food resources. Enough food was gathered in the spring, summer and fall so that winter could be devoted almost exclusively to arts, crafts and ceremonial activities.

Today, the Tribal government employs over 100 people and provides services from Natural Resources, Social Services, Health, Cultural Education, Law Enforcement and Planning and Economic Development.

In their second year as a BIA Self-Governance Tribe and the first year as an IHS Self-Governance "planning" Tribe, the Skokomish is as Chairman James says, "beginning to flex new muscles. It has taken us 1 1/2 years to recognize our true abilities. Now we're like a new fawn beginning to stand. We now have a vision and soon we'll be at the point where we'll be able to run."

Part of the "muscle flexing" and "learning to stand" has involved the Tribal Council, Tribal staff and the Tribal Community. The "learning" process involved two tiers; one with the staff and one with the Community. "First, we had a very intensive look at what Self-Governance meant and what aspects we wanted to bring to Tribal



*Chairman Gordon James*

control. This involved all departments and committees."

When the Tribal Community became involved, Chairman James says there was concern over what Self-Governance meant and whether it was another step towards termination. "We discovered, as a Community, that it had nothing to do with terminating the federal trust, but more to do with how Tribal treaties would be interpreted at the Tribal level."

The Skokomish Tribal Council began a process of Community surveying which Chairman James says will become a regular part of Self-Governance. The Tribal Council and volunteers went out and personally talked with and surveyed Tribal members. "We wanted to find out the significant areas the Tribes should

address," he says. "But, more than that, we wanted everyone to imagine a blank piece of paper and to then fill it out with their vision of what the Tribal government should be and what services we should provide."

The Council hopes the individual surveys and Community input will become institutionalized to the point that a Tribal vision and accompanying needs and priorities will remain over time, regardless of turn-over on the Council. Chairman James says

that during the beginning stages it was very helpful to have good staff people to move the process forward. In addition, he says that cooperation from other Self-Governance Tribes was instrumental in understanding how to begin the process, how to understand concepts like Tribal shares and how to participate in the negotiations. "We couldn't have undertaken this process without the help of these other Tribes."



*Salmon are an important resource for the tribe.*





*The mouth of the Skokomish River with the Olympic Range in the background, flows into Hood Canal.*

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*Local grasses are collected by Bruce Miller for basket weaving.*

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*Self-Governance is a Tribally driven initiative intended to provide Tribal governments more control over their own destinies. The project fosters the shaping of a "new partnership" between Tribal governments and the government of the United States. We believe that excellence in related communication and education is fundamental to the achievement of these goals.*

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## ***BIA Perspective***

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final negotiation session unless there are problems or issues requiring our involvement. This will be possible by the extensive use of conference calls, telefaxes, and the electronic transfer of data and draft documents to complete the negotiations process. The key financial document is the 1998 Reprogramming Request Worksheet. This will be provided to tribes on computer disk in advance of their negotiations with the cumulative amounts included in the 1998 budget already loaded. This has worked well in the past and we expect similar positive results this year. The result of this will be meaningful negotiations at a

lower cost to both tribes, OSG and the BIA.

In closing let me say that it is a privilege to continue to be a part of Tribal Self-Governance and the positive contribution that it is making in the delivery of services to American Indians throughout the land. It is also a privilege to work with a great team who are committed to the continued development and refinement of Tribal Self-Governance: Arlene Brown, Jeannine Brooks, Bruce Blanchard, Renee Buckner, Vern Duns, Matt Kallappa, Mary Nephew, Karole Overberg, Ken Reinfeld and Tom Shirilla.

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